

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUN 12 2009 ★

BROOKLYN OFFICE

LYUBOV GORELIK,

Plaintiff,

-against-

ALLIANCEONE RECEIVABLES
MANAGEMENT, INC.,

Defendant.

09 2554

COMPLAINT and DEMAND FOR JURY
TRIAL

GARAUFIS, J.
J. ORENSTEIN, M.J.

NOW COMES Plaintiff, Lyubov Gorelik ("Plaintiff"), by and through her attorneys, Krohn & Moss, Ltd., for her Complaint against Defendant, AllianceOne Receivables Management, Inc. ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

Parties

2. Plaintiff is a natural person residing in Brooklyn, Kings County, New York.
3. Plaintiff is allegedly obligated to pay a debt and is a consumer as defined by 15 U.S.C. § 1692a(3).
4. Defendant is a corporation headquartered in Exton, Pennsylvania.
5. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6), and sought to collect a consumer debt from Plaintiff.
6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

7. Jurisdiction of this court arises pursuant to *15 U.S.C. § 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

8. Because Defendant conducts business in the state of New York, personal jurisdiction is established.

9. Venue is proper pursuant to *28 U.S.C. § 1391(b)(2)*.

10. Declaratory relief is available pursuant to the Declaratory Judgment Act, *28 U.S.C. §§ 2201 - 2202*.

Factual Allegations

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.

12. Defendant calls Plaintiff at 718-31-6339.

13. Defendant calls Plaintiff from 866-250-5992.

14. Defendant calls Plaintiff requesting to speak with “Ozoda Wymm” and despite the fact Plaintiff has informed Defendant on numerous occasions that they have the wrong number, Defendant continues to call.

15. Defendant is attempting to collect a debt Plaintiff does not owe.

16. Defendant did not send Plaintiff a debt validation letter.

CLAIM FOR RELIEF

17. Defendant’s violations of the FDCPA include, but are not limited to, the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct of which the natural consequence is the abuse and harassment of the Plaintiff;
- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff;
- c. Defendant violated §1692e(2)(a) of the FDCPA by falsely representing the character, amount, or legal status of Plaintiff's alleged debt because Plaintiff does not owe any debt alleged by Defendant;
- d. Defendant violated §1692e(10) of the FDCPA by engaging in deceptive practices in an attempt to collect a debt from Plaintiff because Plaintiff does not owe the debt alleged by Defendant;
- e. Defendant violated §1692f(1) of the FDCPA by attempting to collect a debt that is not authorized by an agreement because Plaintiff does not owe Defendant any debt; and
- f. Defendant violated §1692g(a)(1-5) by failing to provide appropriate notice of the debt within 5 days after the initial communication including: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within 30 days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the 30-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the

consumer's written request within the 30-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

18. As a direct and proximate result of one or more or all of the statutory violations above Plaintiff has suffered emotional distress. *See Exhibit A hereto.*

19. Plaintiff is entitled to her attorney's fees and costs incurred in this action.

20. This case presents an actual and justiciable controversy within the meaning of the Declaratory Judgment Act, 28 U.S.C. §§ 2201 - 2202.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

(1) Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,

(2) Actual damages,

(3) Statutory damages pursuant to the Fair Debt Collection Practices Act to 15 U.S.C. §1692k,

(4) Reasonable attorneys' fees, costs pursuant to the Fair Debt Collection Practices Act 15 U.S.C. § 1692k, and

(5) Awarding such other and further relief as may be just, proper and equitable.

Dated: May 20, 2009

KROHN & MOSS, LTD.

By: 

Adam T. Hill

KROHN & MOSS, LTD.

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Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, Lyubov Gorelik, hereby demands a jury trial in this matter.

EXHIBIT A

I have suffered from the following due to, or made worse by, the actions of the Defendant's debt collection activities:

- | | | |
|---|--------------------------------------|--------------------------|
| 1. Sleeplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 2. Fear of answering the telephone | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 3. Nervousness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 4. Fear of answering the door | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 5. Embarrassment when speaking with family or friends | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 6. Depressions (sad, anxious, or "empty" moods) | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 7. Chest pains | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 8. Feelings of hopelessness, pessimism | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 9. Feelings of guilt, worthlessness, helplessness | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 10. Appetite and/or weight loss or overeating and weight gain | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 11. Thoughts of death, suicide or suicide attempts | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 12. Restlessness or irritability | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 13. Headache, nausea, chronic pain or fatigue | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 14. Negative impact on my job | <input checked="" type="radio"/> YES | <input type="radio"/> NO |
| 15. Negative impact on my relationships | <input checked="" type="radio"/> YES | <input type="radio"/> NO |

Other physical or emotional symptoms you believe are associated with abusive debt collection activities: _____

Pursuant to 28 U.S.C. § 1746(2), I hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 5/20/09

L. Lyubov Gorelik
Signed Name
LYUBOV GORELIK
Printed Name